

**IOWA DEPARTMENT OF NATURAL RESOURCES
ADMINISTRATIVE CONSENT ORDER**

IN THE MATTER OF: GREAT RIVER REGIONAL WASTE AUTHORITY; Des Moines County, Iowa	ADMINISTRATIVE CONSENT ORDER NO. 2007-SW-04
--	--

TO: Douglas H. Napier
Attorney
607 Eighth St. Suite one
Fort Madison, IA 52627-2805

I. SUMMARY

This administrative consent order (Order) is issued to resolve alleged violations relating to the receipt by a sanitary disposal project (SDP) of solid waste generated in areas of the State that are outside of the SDP's defined service area. In order to resolve this matter, Great River Regional Waste Authority (GRRWA) has taken the following actions to prevent the future receipt of solid waste generated in areas of the State that are outside of the defined service area of the SDP operated by GRRWA:

- GRRWA has notified in writing all haulers using this SDP of the exact geographic area of GRRWA's defined service area and has notified the haulers that the delivery of waste that is generated in areas of the State that are outside of the service area is strictly prohibited when such waste makes up any portion of a hauler's load;
- GRRWA has posted signage in the area of the scale. Said sign or signs notify all persons delivering waste to the SDP of the exact geographic area of GRRWA's defined service area and shall further notify the haulers that the delivery of waste that is generated in areas of the State that are outside of the service area is strictly prohibited; and
- GRRWA has obtained written assurances from Floyd's Sanitation verifying that Floyd's Sanitation is aware of and complying with the applicable service area boundaries.

**IOWA DEPARTMENT OF NATURAL RESOURCES
ADMINISTRATIVE CONSENT ORDER
Great River Regional Waste Authority**

Any questions regarding this Order should be directed to:

Relating to technical requirements:

Alex Moon
Iowa Department of Natural Resources
Henry A. Wallace Building
Des Moines, Iowa 50319-0034
Ph: 515-281-6807

Relating to this Order to:

Jon C. Tack, Attorney
Iowa Department of Natural Resources
Henry A. Wallace Building
Des Moines, Iowa 50319-0034
Ph: 515-281-8889

II. JURISDICTION

This Order is issued pursuant to Iowa Code section 455B.307(2) which authorizes the Director to issue any order necessary to secure compliance with or prevent a violation of Iowa Code chapter 455B, Division IV, Part 1 (solid waste), and the rules adopted pursuant to that part; and Iowa Code section 455B.109 and 567 Iowa Administrative Code (IAC) 10, which authorize the Director to assess administrative penalties.

III. STATEMENT OF FACTS

1. GRRWA is a solid waste planning agency and operates an SDP in Lee County, Iowa pursuant to Iowa Department of Natural Resources (Department) permit #56-SDP-07-80P. Pursuant to the operation permit and the comprehensive solid waste management plan (comprehensive plan) filed by GRRWA, the SDP is authorized to accept solid waste from the City of Hillsboro, the unincorporated area of Henry County, all of Lee County, and all of Van Buren County.
2. Solid waste haulers have delivered to the SDP operated by GRRWA solid waste that has been generated or collected in areas of the State that are outside of the service area identified in the comprehensive plan filed by GRRWA.
3. GRRWA asserts that they have taken steps to prevent the delivery to the SDP of loads of solid waste that originate entirely outside of the service area authorized for GRRWA. These efforts have been unsuccessful in preventing or eliminating the delivery of any and all solid waste that is generated in areas of the State that are outside of the authorized service area for GRRWA.
4. The Department and GRRWA agree that additional actions are necessary to prevent the future delivery to the GRRWA SDP of solid waste that is generated in areas of the State that are outside of the authorized service area for GRRWA.

**IOWA DEPARTMENT OF NATURAL RESOURCES
ADMINISTRATIVE CONSENT ORDER
Great River Regional Waste Authority**

5. GRRWA has taken such additional steps as are specified in this Consent Order to prevent the future delivery to the GRRWA SDP of solid waste that is generated in areas of the State that are outside of the authorized service area for GRRWA.

IV. CONCLUSIONS OF LAW

1. Iowa Code section 455B.304 provides that the Environmental Protection Commission shall establish rules governing the handling and disposal of solid waste. The Commission has adopted such rules at 567 IAC chapters 100-121.

2. Iowa Code section 455B.307 and 567 IAC 100.4 prohibit dumping or depositing or permitting dumping or depositing of any solid waste at any place other than a facility permitted by the Department, unless otherwise provided by rule.

3. Iowa Code section 455B.306(1) requires a city, county, and a private agency operating a sanitary disposal project to file with the Director a comprehensive plan detailing the method by which the city, county, or private agency will comply with the requirements of Iowa Code Chapter 455B, Division IV, Part 1. Section 455B.306(1) further requires all cities and counties to file with the Director a comprehensive plan detailing the method by which the city or county will comply with the requirements of section 455B.302 to establish and implement a comprehensive solid waste reduction program for its residents.

4. Iowa Code section 455B.306(6)"e" requires a comprehensive plan issued in conjunction with the issuance of an SDP permit to contain a description of the service area to be served by the city, county or private agency under the comprehensive plan. Section 455B.306(6)"e" further states "A comprehensive plan shall not include a service area, any part of which is included in another comprehensive plan."

5. Rule 567 IAC 113.6 requires all sanitary disposal projects to be operated in accordance with the plans and specification approve by the Department and the terms of the permit.

6. Department permit #56-SDP-07-80P, Section IX, General Provisions, 3rd unnumbered paragraph states: "The permitted service areas and conditions are specified in Special Provision #1 in Section X. Any deviations from the specified comprehensive planning documents, including changes in waste accepted from outside the permitted service areas, any Special Wastes and General Special Wastes from outside the permitted services areas, or any changes in the amount of waste, or changes in the waste stream shall have prior comprehensive planning approval by the Department."

7. Department permit #56-SDP-07-80P, Section X, Paragraph #1, states, in part,

**IOWA DEPARTMENT OF NATURAL RESOURCES
ADMINISTRATIVE CONSENT ORDER
Great River Regional Waste Authority**

“The permit holder is authorized to accept solid waste for disposal in accordance with the approved Great River Regional Waste Authority Comprehensive Plan, Part I. The Comprehensive Plan, Part I as approved by the Department on July 28, 2004; any approved amendments to the plan; and the latest plan update, are hereby incorporated as permit plan documents. The permitted service area includes: The city of Hillsboro and the unincorporated area in Henry County, all cities and the unincorporated area in Lee County, and all cities and the unincorporated area in Van Buren County.”

8. The Department asserts that the receipt of solid waste from outside of the approved service area constitutes a violation of the provisions cited above. GRRWA asserts that knowledge of the delivery of solid waste from outside the planning area is an essential element of any such violation. The parties agree that the resolution of this legal dispute is not necessary to the resolution of this matter so long as GRRWA undertakes the required measures to prevent the delivery of solid waste from those service areas contained in another approved comprehensive plan.

V. ORDER

In order to resolve this matter, GRRWA is ordered to and has taken the following actions to prevent the future receipt of solid waste generated in areas of the State that are outside of the defined service area of the SDP operated by GRRWA:

1. GRRWA has notified in writing all haulers using this SDP of the exact geographic area of GRRWA's defined service area and has notified the haulers that the delivery of waste that is generated in areas of the State that are outside of the service area is strictly prohibited when such waste makes up any portion of a hauler's load;
2. GRRWA has posted signage in the area of the scale. Said sign or signs notify all persons delivering waste to the SDP of the exact geographic area of GRRWA's defined service area and shall further notify the haulers that the delivery of waste that is generated in areas of the State that are outside of the service area is strictly prohibited; and
3. GRRWA has obtained written assurances from Floyd's Sanitation verifying that Floyd's Sanitation is aware of and complying with the applicable service area boundaries.

VI. PENALTY

1. Iowa Code section 455B.307(3) provides for civil penalties of up to \$5,000 per day for solid waste violations.

**IOWA DEPARTMENT OF NATURAL RESOURCES
ADMINISTRATIVE CONSENT ORDER
Great River Regional Waste Authority**

2. Iowa Code section 455B.109 authorizes the Environmental Protection Commission to establish by rule a schedule of civil penalties up to \$10,000 that may be assessed administratively. The Commission has adopted this schedule with procedures and criteria for assessment of penalties; Chapter 567 IAC10. Pursuant to this chapter, the Department has determined that the most effective and efficient means of addressing the above-cited violations is the issuance of an Order without penalty at this time.

VII. WAIVER OF APPEAL RIGHTS

Iowa Code section 455B.308 and 561 IAC 7.5(1), as adopted by reference by 567 IAC chapter 7, authorize a written notice of appeal to the Commission. This Order is entered into knowingly by and with the consent of GRRWA. By signature to this Order, all rights to appeal this Order are waived.

VIII. NONCOMPLIANCE

Failure to comply with this Order may result in the imposition of administrative penalties or referral to the Attorney General to obtain appropriate relief pursuant to Iowa Code section 455B.307. Compliance with provision "V. Order" of this Order constitutes full satisfaction of all requirements pertaining to the violations described in Divisions III and IV of this Order. The Department reserves the right to bring enforcement action or to request that the Attorney General initiate legal action to address other violations not described in this Order but which may arise from the facts summarized in Division III of this Order.



~~JEFFREY R. VONK~~, DIRECTOR, **RICHARD A. LEOPOLD**
IOWA DEPARTMENT OF NATURAL RESOURCES Dated this 2 day of May, 2006



GREAT RIVER REGIONAL WASTE AUTHORITY Dated this 8 day of December, 2006

Solid Waste Section, EWMB; Jon Tack; VLE